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9 Attorneys for Defendants Jessica Cornish,  
10 UMG Recordings, Inc. (erroneously sued as  
Universal Music Group, Inc.) and Universal  
11 Republic Records, a division of  
UMG Recordings, Inc.

12  
13 UNITED STATES DISTRICT COURT  
14 CENTRAL DISTRICT OF CALIFORNIA

15 WILL LOOMIS, an individual,

16 Plaintiff,

17 v.

18 JESSICA CORNISH, P/K/A JESSIE J,  
an individual; UNIVERSAL MUSIC  
19 GROUP, INC., a Delaware corporation;  
LAVA RECORDS LLC, a limited  
20 liability company; UNIVERSAL  
REPUBLIC RECORDINGS, business  
21 form unknown; and DOES 1 – 10  
INCLUSIVE,

22 Defendants.  
23

CASE NO. CV 12-5525-RSWL(JEMx)

Hon. John E. McDermott

~~[PROPOSED]~~ PROTECTIVE  
ORDER

Courtroom: C, 8th Floor

1 This Court finds that good cause exists for a Protective Order on the terms  
2 and conditions stipulated by the parties.

3 Therefore, IT IS ORDERED as follows:

4  
5 **1. DEFINITIONS**

6 1.1 As used herein, the term “Confidential Information” shall mean: (a)  
7 any type of information that has not been made generally available to the public  
8 and the disclosure of which the disclosing party or third party contends would  
9 cause serious harm to the disclosing party’s or third party’s business operations or  
10 interests, including, but not limited to, contracts for personal services, customer  
11 lists, customer data, costs of goods or services sold, manufacturing or other costs  
12 of doing business, employee salaries, marketing plans, financial performance data,  
13 sales records, inventory sheets, and manufacturing, product development, and  
14 business development strategies; (b) data derived from such Confidential  
15 Information, including any summaries, compilations, quotes, or paraphrases  
16 thereof; (c) any other oral, written, or recorded material that consists of or contains  
17 trade secrets (as defined in California Civil Code § 3426.1(d)) or other confidential  
18 research, development, or commercial information (as referred to in Fed. R. Civ. P.  
19 26(c)(1)(G)); or (d) any other information that the designating party reasonably  
20 believes (1) constitutes proprietary information, confidential business information,  
21 information that the designating party may need, for any business, employment or  
22 competitive purposes, to be protected from disclosure, trade secrets, and/or  
23 information in which the party or any third party has a privacy interest, or (2) is  
24 subject to protection from disclosure, or limitation upon disclosure, under  
25 applicable law.

26 1.2 As used herein, the terms “document,” “documents,” “tangible  
27 things,” “recordings,” and “photographs” mean documents, writings, tangible

things, recordings, and photographs as defined in Fed. R. Civ. P. 34(a) and Fed. R. Evid. 1001, and include, but are not limited to, records, exhibits, reports, samples, transcripts, video or audio recordings, disks, affidavits, briefs, summaries, notes, abstracts, drawings, company records and reports, answers to interrogatories, responses to requests for admissions, and motions, including copies or computer-stored versions of any of the foregoing.

## 2. DESIGNATION OF CONFIDENTIAL INFORMATION

2.1 This PROTECTIVE ORDER applies to all discovery responses, documents, testimony, and other information or materials containing Confidential Information disclosed in this action that are designated by a party or third party as CONFIDENTIAL or HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY, as defined below, whether such disclosure is by order of the Court or by response to questions in a deposition, written interrogatories, requests for the production of documents and other tangible things, requests for admission, Rule 45 subpoenas to third parties, or any other discovery undertaken in this action.

2.2 Any party or third party responding to discovery in this action shall have the right to designate any document, testimony, or other information or material as “Highly Confidential – Attorneys’ Eyes Only.” “Highly Confidential – Attorneys’ Eyes Only” information is information that the designating party reasonably believes contains Confidential Information which reasonably requires for its protection to be treated as “Highly Confidential – Attorneys’ Eyes Only.”

2.3 Such designation shall be accomplished by placing the notation “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” on every page of each document or portion thereof so designated. In the case of Confidential Information disclosed in a non-paper medium (e.g., videotape, audiotape, computer disks, etc.), the appropriate notation shall be affixed to the

1 outside of the medium or its container so as to clearly give notice of the  
 2 designation. Such designation is deemed to apply to the document itself and to the  
 3 Confidential Information contained therein.

4       2.4 Confidential Information so designated shall be used only for the  
 5 purposes of this litigation and may not be used by any party to whom or which that  
 6 information is produced or disclosed for research, development, sales, marketing,  
 7 publicity, or competitive purposes, or any other purpose. Confidential Information  
 8 so designated shall not be disclosed to anyone other than those persons identified  
 9 in Paragraphs 4.3 and 4.4, *infra*, except as may be ordered by the Court or agreed  
 10 to in writing by the parties. If any information designated by a party or third party  
 11 as CONFIDENTIAL or HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES  
 12 ONLY is thereafter used by a party to whom or which it has been produced or  
 13 disclosed as part of a paper filed or lodged with the Court in this action or in a  
 14 response to a discovery request in this action, the party using that information shall  
 15 take all reasonable steps to preserve the continued confidentiality of that  
 16 designated Confidential Information. This includes maintaining the designation of  
 17 confidentiality in all places where that information is so used and requesting that  
 18 such information is filed or lodged with the Court under seal in accordance with  
 19 the procedures of C.D. Cal. Local Rule 79-5.1.

20       2.5 The parties and any third parties responding to discovery in this action  
 21 shall use reasonable care to avoid designating any materials as CONFIDENTIAL  
 22 or HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY that are: (a) not  
 23 entitled to such designation, or (b) generally available to the public.

### 24 25       **3. DEPOSITIONS**

26       3.1 With respect to the examination of witnesses upon oral deposition,  
 27 when designated Confidential Information is supplied to the deponent, or when the

1 deponent's testimony contains, reflects, or comments on designated Confidential  
2 Information, the deposition reporter and/or videotape operator shall be informed of  
3 this PROTECTIVE ORDER by the party or third party seeking to invoke its  
4 protection, and will be required to agree to be bound by its terms. The reporter  
5 and/or videotape operator then shall place on the cover of any deposition transcript  
6 or videotape that contains any designated Confidential Information the words  
7 "CONTAINS CONFIDENTIAL INFORMATION SUBJECT TO A COURT  
8 PROTECTIVE ORDER." Counsel for the parties then shall take appropriate steps  
9 to prevent any portions of any deposition transcript or videotape designated  
10 CONFIDENTIAL or HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY  
11 from being disclosed to any person, except as provided in this PROTECTIVE  
12 ORDER.

13 3.2 Testimony at a deposition may be designated CONFIDENTIAL or  
14 HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY if this PROTECTIVE  
15 ORDER is invoked at the deposition by counsel for a party or third party or the  
16 deponent. The designating party or third party also may, within thirty (30) days  
17 after receiving a copy of the deposition transcript, provide all parties with a written  
18 list of the page(s) of the deposition transcript, and any exhibits attached thereto,  
19 that the party or third party designates as CONFIDENTIAL or HIGHLY  
20 CONFIDENTIAL – ATTORNEYS' EYES ONLY. If a deponent has disclosed  
21 something at a deposition that a party or third party believes constitutes  
22 Confidential Information and should be designated as such, the party or third party  
23 so believing can go back during the deposition and designate that information as  
24 may be appropriate.

25 3.3 Each deponent to whom any party or third party proposes to disclose  
26 designated Confidential Information at a deposition, trial, or other proceeding shall  
27

1 be given a copy of this PROTECTIVE ORDER and informed of its contents and  
2 the parties shall take all reasonable steps to have such witnesses abide by the same.

3 3.4 If designated Confidential Information is to be discussed or disclosed  
4 in a deposition, any party or third party claiming such confidentiality may exclude  
5 from the room any person who is not entitled to receive such Confidential  
6 Information during that portion of the deposition in which the Confidential  
7 Information is actually discussed or disclosed. If designated Confidential  
8 Information is to be discussed or disclosed at a hearing or at trial, the parties may  
9 request that the Court exclude from the courtroom any person who is not entitled to  
10 receive such Confidential Information during that portion of the hearing or trial in  
11 which the Confidential Information is actually discussed or disclosed.

12  
13 **4. DISCLOSURE OF DESIGNATED CONFIDENTIAL**  
14 **INFORMATION**

15 4.1 The parties, counsel for the parties, and all persons who view  
16 designated Confidential Information shall maintain all information designated as  
17 CONFIDENTIAL or HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY  
18 in confidence and shall not disclose such information, directly or indirectly, to any  
19 person except as provided in this PROTECTIVE ORDER.

20 4.2 While the disclosure of Confidential Information designated  
21 CONFIDENTIAL or HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY  
22 to persons not authorized by this PROTECTIVE ORDER could, by definition, be  
23 prejudicial to the business, operations, or interests of the designating party or third  
24 party, the designations should not be overused.

25 4.3 Access to Confidential Information designated as CONFIDENTIAL  
26 shall be limited to the following persons:

1                   4.3.1           Outside and in-house counsel for the parties and their  
 2 support personnel such as paralegal assistants, secretarial, stenographic and clerical  
 3 employees and contractors, and outside copying services who are working on this  
 4 litigation under the direction of such attorneys and to whom it is necessary that the  
 5 materials be disclosed for purposes of this litigation.

6                   4.3.2           Bona fide experts and/or consultants (together with their  
 7 clerical staff) retained by counsel of record on behalf of the parties for purposes of  
 8 this litigation.

9                   4.3.3           Pursuant to Paragraphs 3.1 through 3.4, *supra*, deponents  
 10 at their depositions. Counsel should have a good faith belief that such disclosure is  
 11 necessary before disclosing designated Confidential Information to the deponent.

12                  4.3.4           Court reporter(s) employed in this litigation.

13                  4.3.5           The parties to this action, as well as current officers,  
 14 directors, and employees of the parties to this action that are corporate entities.

15                  4.3.6           The Court and its staff, mediators used in settlement  
 16 proceedings in this action and their staff, and members of a jury impaneled for a  
 17 trial in this action.

18           4.4    Access to Confidential Information designated as HIGHLY  
 19 CONFIDENTIAL – ATTORNEYS' EYES ONLY shall be limited to the  
 20 following persons:

21                  4.4.1           Outside and in-house counsel for the parties and their  
 22 support personnel such as paralegal assistants, secretarial, stenographic and clerical  
 23 employees and contractors, and outside copying services who are working on this  
 24 litigation under the direction of such attorneys and to whom it is necessary that the  
 25 materials be disclosed for purposes of this litigation.



1                   4.4.2           Bona fide experts and/or consultants (together with their  
2 clerical staff) retained by counsel of record on behalf of the parties for purposes of  
3 this litigation.

4                   4.4.3           Pursuant to Paragraphs 3.1 through 3.4, *supra*, deponents  
5 at their depositions. Counsel should have a good faith belief that such disclosure is  
6 necessary before disclosing designated Confidential Information to the deponent.

7                   4.4.4           Court reporter(s) employed in this litigation.

8                   4.4.5           The Court and its staff, mediators used in settlement  
9 proceedings in this action and their staff, and members of a jury impaneled for a  
10 trial in this action.

11           4.5    Nothing herein shall prohibit a party, or his or its counsel, from  
12 disclosing a document that contains Confidential Information to the person whom  
13 the document identifies as an author, addressee, or recipient of such document.  
14

## 15           **5. CHALLENGING A DESIGNATION**

16           5.1    A party which disputes the propriety of a designation shall challenge  
17 such designation within a reasonable time after the materials are so designated. In  
18 the event that a party challenges such designation, the party shall provide written  
19 notice to the designating party of its disagreement with the designation. The  
20 parties shall first attempt to resolve the dispute in good faith and shall employ the  
21 procedures of Local Rules 37-1 through 37-4 to resolve that dispute. If the dispute  
22 cannot be resolved, the receiving party may apply to the Court for a ruling  
23 concerning the status of such material, and, pending such application and ruling,  
24 the receiving party shall treat such material as Confidential Information under this  
25 PROTECTIVE ORDER. Upon any hearing, the burden of proving that material  
26 has been properly designated is on the party making such designation.  
27



1           5.2    For documents that any party might wish to file with the Court under  
2 seal, that party shall employ the procedures of Local Rule 79-5.1 and comply with  
3 the requirements of Section 9, *infra*.

4           5.3    No party shall be obliged to challenge the propriety of a designation,  
5 and a failure to do so shall not preclude a subsequent attack on the propriety of any  
6 other designation.

7  
8           **6.    INADVERTENT FAILURE TO DESIGNATE**

9           6.1    The inadvertent failure to designate Confidential Information as  
10 CONFIDENTIAL or HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY  
11 prior to or at the time of disclosure shall not operate as a waiver of a party’s or  
12 third party’s right to designate such information within thirty (30) days after such  
13 disclosure or, if the information is provided by a third party, within thirty (30) days  
14 after notice of such disclosure.

15          6.2    In the event that Confidential Information is designated as  
16 CONFIDENTIAL or HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY  
17 after disclosure but within the thirty (30) day period allowed under Paragraph 6.1,  
18 *supra*, the receiving party shall employ reasonable efforts to ensure that all  
19 previously disclosed Confidential Information is subsequently treated as  
20 CONFIDENTIAL or HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY,  
21 as appropriate, pursuant to the terms of this PROTECTIVE ORDER.

22          6.3    Should any document or information designated as CONFIDENTIAL  
23 or HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY be disclosed,  
24 through inadvertence or otherwise, to any person or party not authorized to see  
25 such materials under this PROTECTIVE ORDER, then the disclosing party or  
26 third party shall use its best efforts to bind such person to the terms of this  
27 PROTECTIVE ORDER, and the disclosing party shall: (a) promptly inform such

1 person of all the provisions of this PROTECTIVE ORDER, and (b) identify the  
 2 name, address, telephone number, employer, and title or position of such person  
 3 immediately to the party or third party that or who designated the document.  
 4

5 **7. CUSTODY AND DISPOSITION OF DESIGNATED**  
 6 **CONFIDENTIAL INFORMATION**

7 7.1 Confidential Information designated CONFIDENTIAL or HIGHLY  
 8 CONFIDENTIAL – ATTORNEYS’ EYES ONLY shall be maintained in the  
 9 custody of counsel for the parties, except for information in the custody of: (a) the  
 10 Court; (b) any court reporter transcribing testimony given in this action, for the  
 11 limited purpose of rendering his or her normal transcribing services; and (c)  
 12 consultants entitled to see such information under the terms of this PROTECTIVE  
 13 ORDER, to the extent necessary for their study, analysis, and preparation of the  
 14 case. Except for the Court, a person with custody of information designated  
 15 CONFIDENTIAL or HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY  
 16 shall maintain it in a manner that limits access to it to only those persons entitled  
 17 under this PROTECTIVE ORDER to examine it. Counsel may furnish  
 18 information designated CONFIDENTIAL or HIGHLY CONFIDENTIAL –  
 19 ATTORNEYS’ EYES ONLY in written format to persons authorized under this  
 20 PROTECTIVE ORDER to receive it.

21 7.2 Unless counsel agree otherwise in writing, within sixty (60) days of  
 22 the conclusion of this litigation, whether by settlement or final, non-appealable  
 23 decision of the Court, the parties, counsel for the parties, and all other persons who  
 24 are in possession of documents designated CONFIDENTIAL or HIGHLY  
 25 CONFIDENTIAL – ATTORNEYS’ EYES ONLY agree that they will (a) destroy  
 26 or return to the producing party or third party all hard copy documents, other than  
 27 attorney work product, containing designated Confidential Information produced  
 28

1 by a party or third party; and (b) delete all electronically stored documents, other  
 2 than attorney work product, containing designated Confidential Information  
 3 produced by a party or third party. Notwithstanding the foregoing, the parties  
 4 shall not have any obligation under this Protective Order to ensure the destruction  
 5 of any copies of electronically-stored Confidential Information made by the  
 6 automatic processes of their computer systems, including but not limited to any  
 7 such copies that may reside on their servers and/or backup tapes.

8 7.3 Notwithstanding the foregoing, counsel of record and each party shall  
 9 be permitted to retain a file copy of all pre-trial, trial, and post-trial materials,  
 10 depositions and deposition exhibits, and document databases. Nothing in this  
 11 paragraph shall be construed to require any party to return or destroy work product  
 12 or attorney client privileged communications, whether from or to outside or in-  
 13 house counsel. Such file copies must be maintained under the conditions of  
 14 maintaining confidentiality as set forth in Paragraph 7.1, *supra*.

## 15 16 **8. MISCELLANEOUS PROVISIONS**

17 8.1 Except as otherwise set forth in Paragraphs 8.5-8.7 regarding the  
 18 introduction and use of Confidential Information at trial and by the Court, and as  
 19 may be required by law or legal process, the obligations of confidentiality and  
 20 nondisclosure shall be effective and shall be respected by the parties and all  
 21 persons in any way involved in these proceedings or to whose attention  
 22 Confidential Information shall come unless and until otherwise ordered by the  
 23 Court or stipulated by all parties to this action. These obligations of confidentiality  
 24 and nondisclosure shall bind the parties through all proceedings in this action,  
 25 including all appeals, arbitrations, and proceedings upon remand, and shall survive  
 26 the conclusion of this action unless and until otherwise ordered by the Court, or  
 27

1 until the parties to this action stipulate that designated Confidential Information  
2 can be disclosed.

3 8.2 By entering into this PROTECTIVE ORDER, no party or third party  
4 waives any objections it might have to the production of documents or information  
5 covered by this PROTECTIVE ORDER.

6 8.3 No party to this action, by entering into this PROTECTIVE ORDER,  
7 by designating certain information as CONFIDENTIAL or HIGHLY  
8 CONFIDENTIAL – ATTORNEYS’ EYES ONLY, or by acquiescing in any other  
9 party’s such designation, shall be deemed to have admitted or agreed that any such  
10 designated information is, in fact, a trade secret or other confidential research,  
11 development, or commercial information.

12 8.4 The Court retains jurisdiction even after termination of this action to  
13 enforce this PROTECTIVE ORDER and to make such deletions from or  
14 amendments, modifications, and additions to the PROTECTIVE ORDER that the  
15 Court may from time to time deem appropriate. The parties hereto reserve all  
16 rights to apply to the Court at any time, before or after termination of this action,  
17 for an order modifying this PROTECTIVE ORDER or seeking further protection  
18 against disclosure or use of claimed Confidential Information.

19 8.5 Nothing contained herein shall restrict any party from introducing  
20 designated Confidential Information as evidence at trial. A party may seek a  
21 protective order prior to trial with respect to testimony containing designated  
22 Confidential Information that may be offered at trial or specific documents  
23 containing designated Confidential Information that may be marked as exhibits at  
24 trial in order to maintain the continued confidentiality of such information.

25 8.6 In general, court orders are available to the public. To the extent that  
26 a party refers to or relies upon material that is filed under seal in its pleadings, the  
27 pleadings must request that specific information be kept confidential. Absent the

1 granting of such advance request, the Court may incorporate all evidence in its  
2 written and oral rulings.

3 8.7 In the event the case proceeds to trial, all information that was subject  
4 to the provisions of a protective order and that is used at trial will become public  
5 absent a separate court order upon motion and sufficient cause shown.

6  
7 **9. FILING OR LODGING UNDER SEAL**

8 9.1 If any party or third party seeks to file or lodge with the Court any  
9 documents or things that contain designated CONFIDENTIAL or HIGHLY  
10 CONFIDENTIAL – ATTORNEYS’ EYES ONLY, such materials shall be  
11 submitted to the Court in accordance with the procedures set forth in C.D. Cal.  
12 Local Rule 79-5.1 for filing documents under seal. Where one party or third party  
13 wishes to file or lodge any documents or things with the Court under seal, the other  
14 party or parties shall not unreasonably withhold agreement to such filing or  
15 lodging under seal. If such agreement is provided, the parties shall submit to the  
16 Court a stipulation and proposed order for such filing or lodging under seal. If no  
17 such agreement is provided, then the filing or lodging party or third party shall  
18 submit an application and proposed order to the Court pursuant to C.D. Cal. Local  
19 Rule 79-5.1.

20 9.2 The person filing Confidential Information under C.D. Cal. Local  
21 Rule 79-5.1 shall designate to the Clerk that all or a designated portion thereof is  
22 subject to this PROTECTIVE ORDER and is requested to be kept under seal,  
23 except that upon the default of the filing party to so designate, any party may do  
24 so.

1           **10.    GOOD CAUSE STATEMENT**

2           Pursuant to Fed. R. Civ. P. 26(c), good cause exists for entry of this

3 PROTECTIVE ORDER because the parties to this action: (1) have sought and

4 expect to seek in the future the discovery of certain information in this action that

5 is sensitive, private, and confidential, or that third parties required to get involved

6 in discovery in this action might believe is sensitive, private, and confidential,

7 including, but not limited to, (a) information concerning the amounts paid under

8 and other terms in confidential contracts entered into by the parties with third

9 parties, and the financial and other terms of contracts entered into by the parties

10 that are competitively sensitive and that would harm the parties if such terms were

11 disclosed to their competitor, (b) other information that constitutes proprietary

12 information, confidential business information, information that a party or third

13 party may need, for any business, employment or competitive purposes, to be

14 protected from disclosure, (c) trade secrets, and/or information in which a party or

15 any third party has a privacy interest, and (d) information that is subject to

16 protection from disclosure, or limitation upon disclosure, under applicable law; (2)

17 believe that unrestricted disclosure or dissemination of such Confidential

18 Information will cause them some business, commercial, and privacy injury; (3)

19 desire an efficient and practicable means to designate such information as

20 CONFIDENTIAL or HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY

21 and thereby help ensure its continued protection against unwarranted disclosure or

22 dissemination; and (4) have agreed to such means as set forth herein.

23

24

25 DATED: March 26, 2013

/s/John E. McDermott

Honorable John E. McDermott  
United States Magistrate Judge